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PATENT
PRE-APPEAL REQUEST FOR REVIEW
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

**Pablo Castro, Blaine Dockter, Lale
Divringi, and Sharad Sundaresan**

Confirmation No.: 6346

Application No.: 10/824,177

Group Art Unit: 2194

Filing Date: April 14, 2004

Examiner: Richard Pantoliano, Jr.

For: ASYNCHRONOUS DATABASE API

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant respectfully requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets. No more than five pages are provided.

REMARKS

Claims 21, 23-25, and 28-37 are pending and rejected. Claims 21, 30, and 34 are independent. Pre-appeal review of the outstanding rejections is requested because the Examiner has omitted one or more essential elements needed for a prima facie rejection.

In an Official Action dated Aug. 8, 2007, claims 21 and 23-25 were objected to, claims 21, 23-25, and 28 were rejected under 35 U.S.C. § 102, and claims 29-37 were rejected under 35 U.S.C. § 103. Applicants stand prepared to address the objections with minor modifications to the claims as necessary, however Applicants respectfully request review of the rejections under 35 U.S.C. §§ 102 and 103.

Claim Objections

Claim 21 was objected to for containing the language “wherein upon invocation said...” Applicants stand prepared to modify this language to recite “wherein upon invocation of said...” as recommended in the Official Action of Aug. 8, 2007.

Claims 23-25 were objected to for depending from canceled claim 22. Applicants stand prepared to modify this language to properly refer to claim 21.

Rejection of Claims 21, 23-25, and 28 under 35 U.S.C. § 102

Claims 21, 23-25, and 28 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Pat. 5,822,585 (Noble). However, Noble does not disclose interactions with a database as recited in Applicant’s claims.

For example, item 6(a) of the Official Action alleges that Noble discloses “instructions for providing an application programming interface (“API”) for an application that requests a database operation,” as recited in Applicants’ claim 1, at Noble col. 3, lines 36-55, col. 4, line 43, and col. 11, lines 1-30. However, none of these cited sections teach or suggest an *API for an application that requests a database operation*. More generally, Noble does not discuss or suggest a database API in any form. An API is referenced at col. 4, line 51, but there is no suggestion that the API is for an application accessing a database.

A similar showing may be made for each aspect of the claim that refers to a database. Another example can be found in the statement in claim 1 reciting “instructions for an initialization method that is invoked by said application to request said database operation.”

Noble simply cannot be read as disclosing an initialization method that is invoked...to request a database operation. The Official Action alleges that Noble discloses this element in col. 6, line 58-col. 7, line 12, col. 10, lines 46-54, and col. 11, lines 1-30. However, none of these cited sections makes any reference to a database or to requesting a database operation.

The above are but two examples of the deficiency of Noble in disclosing Applicant's invention. Noble also fails to disclose, for example, "instructions for signaling an application when a database operation is complete," and "instructions for a finalization method that can be invoked by said application, in response to said signaling, to obtain any results of said database operation," and "said finalization method: prepares database results for said application; and returns said database results to said application."

Failing to disclose all the elements of claim 1, Noble therefore also fails to disclose the elements of dependent claims 23-25, and 28.

Rejection of Claims 29-37 under 35 U.S.C. § 103

Claims 29-37 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over Noble in view of U.S. Pat. 5,689,697 (Edwards). Noble is deficient for the reasons discussed above as they pertain to similar limitations of independent claims 30 and 34, and Edwards fails to cure the deficiencies of Noble.

Referring claims 30 and 34, these claims contain limitations similar to those of claim 1, which are not found in Noble. For example, claim 30 requires, inter alia, "...said initialization method is invokable by a client thread to request a database operation," and said initialization method "validates input parameters for a database operation," and "sets up a database operation," and so on. Similar limitations are found in claim 34.

Edwards fails to cure the deficiency of Noble. While Edwards arguably discloses a database and database API, it nonetheless fails to teach many aspects of Applicants' claims, whether taken alone or in combination with the other references of record. In short, Edwards discloses an "asynchronous" API that is not in fact fully asynchronous, as explained in the background section of Applicants' specification, because Edwards requires polling. See, e.g., Edwards Abstract, Edwards summary (col. 2 line 30).

As a result, Edwards does not teach, for example, "instructions for signaling an application when a database operation is complete" as recited in claim 1, because Edwards

instead uses polling to determine if database results are available, e.g. as described in Edwards col. 4, lines 30-45. Note that while Edwards SQL Arrival Poll is sent “to the DBM client,” such poll is not sent “when a database operation is complete,” as recited in claim 1, but rather “at a frequency established by that application,” as stated in Edwards col. 4, lines 44-45.

Similarly, independent claims 30 and 34 contain limitations similar to the above-discussed aspect of claim 1, which define over Noble, Edwards, and the other references of record. The various remaining dependent claims therefore also define over the references for the same reason.

Because the Official Action relies on Noble as disclosing the above described aspects of the claims, and because these aspects are not in fact disclosed by Noble, the Official Action has omitted one or more essential elements needed for a prima facie rejection. The dependent claims define over Noble for the same reason. The Official Action does not allege that Edwards, or the other references of record cure the above described deficiency of Noble.

Applicants respectfully request either a reopening of prosecution on the merits and an appropriate Office communication in due course, or if appropriate, a proposed amendment proposing changes that, if accepted, may result in an indication of allowability for the contested claims, or, alternatively, allowance of the existing claims.

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/Nathaniel Gilder/
Nathaniel Gilder
Registration No. 53,233

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439